


FORM OF ORDER SHEET

Court of _____

Appeal No. 1830/2023

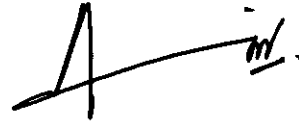
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/09/2023	<p>The appeal of Mr. Rehmat Ullah resubmitted today by Syed Mudasir Pirzada Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <i>13.09.2023</i></p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal submitted by Mr. Syed Mudasir Pirzada I.e. on 01.09.2023 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Pages no. 8 & 9 of the appeal are illegible which may be replaced with legible/better one.
2. Affidavit is not appended/duly attested by the oath commissioner.

No. 3155 /S.T.

Dt. 4/9 /2023



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Syed Mudasir Pirzada Adv.
High Court Peshawar.

Resubmitted after completion

11/09/2023



BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1830 2023

Rehmat Ullah Sub Inspector District Karak NO 242/K Police Line Karak

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

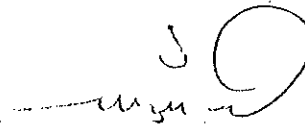
(Respondent)

INDEX

Sr No	Description of Documents	Annexure	Page
1	Memo of Appeal		1
2	Affidavit		2
3	Address of the Parties		3-6
4	Copy of impugned Order dated 31-07-23	A	7-9
5	Copy of Departmental Representation along with rejection order dated 31-07-23	B	10-12
6	Wakalatnama	C	


Appellant

Through



Date / /

Syed Mudasir Pirzada
Advocate HC
0345-9645854

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1830 2023

Rehmat Ullah Sub Inspector District Karak NO 242/K Police Line Karak

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 27-04-22-VIDE NO-226/CC IN WHICH THE RESPONDENT NO:-2 WITHOUT ANY LAWFUL JUSTIFICATION OR COGENT REASON AND WITHOUT ISSUING ANY COUNSELING TO THE APPELLANT BLESSED WITH ADVERSE REMARKS IN ACR/PER AND THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION FOR EXPUNGTION ON DATED 05-05-2022 AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS REJECTED ON 31-07-23.

Pray:

In view of above submission it is requested, by accepting of instant service appeal the impugned order of Respondents No 2 may please be set a side and the expunge the adverse remarks in ACR/PER for the period mentioned above.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following facts and grounds:-

Facts:

Briefly facts are that the appellant while serving in the department with the entire satisfaction of the respondent above and for the period of 14-06-20 to 31-12-20 the respondent No-2 without any complaint or without any lawful justification as well in the absence of counseling / warning blessed with the impugned adverse remarks in ACR/PER as (Below Average Officer) and the same were communicated to the appellant on dated 02-05-22 (Copy of impugned order/ACR annexed as annexure A)

That prior to blessing of impugned order by respondent No-2 awarding adverse remarks in ACR/PER the respondent No-2 does not peruse the previous good

ACR for different periods in the same year in which it has been mentioned that the appellant performance remains satisfactory .

That the respondent No.2 awarding adverse remarks which was not communicated to the appellant well with in time and on dated 02-05-22 the appellant were serving under the kind control of DPO Karak intimated to the appellant that respondent No. 02 had blessed with adverse remarks in ACR which speaks that no counseling or warning were ever been issued to the appellant which is against to the service norms.

That there is nothing on record which impales the respondent No-2 to award the adverse remarks in ACR/PER for the period mentioned above and the appellant feeling aggrieved preferred departmental representation before the respondent No-1 on dated 05-05-22 which were still not consider and rejected on date 25-07-23 without keeping in mind that all previous ACR's the appellant earn A ACR's Copy of departmental representation is annexed as annexure B respectively)

That the appellant had received good performance certificate on different occasions but this aspect has not been considered while awarding impugned adverse remarks in ACR / PER without any lawful justification or without any reason mentioned therein as the appellant remains reader during ACR period and nothing against him

That as per rule the respondent no. 2 were duty bound to issue warning prior to the issuance of adverse remarks as well as no counseling opportunity has ever been extended towards the appellant which shows the biasness on the part of Respondent No 2.

That the appellant again feeling aggrieved when the Deptt: Representation were not entertained, hence having no alternate remedy except to prefer instant service appeal before the Honourable Tribunal on the following grounds inter alia:

Grounds:

- a. That the appellant is honest and dedicated and leave no stone unturned to discharge in his assigned duties.
- b. That there is nothing on record which shows that the appellant is an unbecoming officer or the performance is not up to the mark.
- c. That according to the prevailing rules when the competent authority reached to the conclusion for the purpose of awarding remarks in ACR in such like manner it must be communicated to the officer concerned with in time but the same has not been communicated to the appellant.
- d. That there is nothing on record nor any complainant as well as there is no single evidence or any subjudice issue pending against the appellant which

signifies that the appellant services were recommended for adverse remarks.

- e. That the appellant never remains absent from his lawful duty nor have any secret diaries against the conduct of the appellant .
- f. That if the services were not satisfactory then the appellant must be noticed for any disciplinary proceedings and the appellant were duty bound to submit his justification, but there is nothing on record regarding any disciplinary proceedings and the appellant is a responsible officer.
- g. That the appellant has always earned a good name for Department and never ever become a burden on exchequer of the Government but without pursuing the service record directly award the adverse remarks in ACR for the period of 14-06-20 to 31-12-22 which is liable to be expunged.
- h. That an unjust has been done with the appellant by not given the opportunity of personal hearing to explain the satisfactory plausible justification.
- i. That the appellant is still not understand that what element was consider by the time of giving adverse impugned remarks in ACR of the appellant.
- j. That the biasness is proved on the part of Respondent No. 2 that the impugned adverse remarks were issued for the period of 14-06-20 to 31-12-22 and the same were communicated to the appellant on 02-05-22 and without giving prior notice or warning or counselling and without explainig reason till to date and the same adverse remarks were kept pending and secretly kept which apparent from the report.
- k. That again an unjust has been done with the appellant by not accepting Deptt: representation of the appellant as in the light of superior courts guidelines that every representation must be decided with in scribed period with independent mind with a speaking order.
- l. That by the time of awarding impugned adverse remarks in ACR for the period mentioned above during the kind under control service of the Respondent No 2 no single complaint or inefficiency or any other unsatisfactory services were not ever been tender by appellant which would be verify from the service record of the appellant.

The appellant had numerous good entries in his service record which could be verified form the service record of the appellant.

That the reporting officers vide in their findings not personally heard the present appellant .

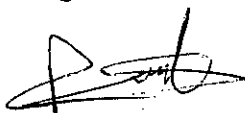

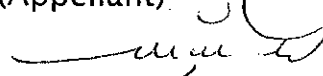
- m. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law, the same is based on wrong assumption of facts.
- n. That there is no any departmental enquiry is pending before any forum against the appellant.
- o. That the impugned order is out come of surmises and conjecture.
- p. That the impugned order is suffering from perversity of reasoning, hence liable to be set aside and expunged the adverse remarks.
- q. That the adverse remarks and order of the respondent No 2 is very much harsh in nature.
- r. That as per UDHR 1948 prohibits arbitrary discretion.
- s. That the Honourable Tribunal in same identical situation case's held and set a side the impugned order and directed to expunge the adverse remarks but the appeal in hand is also one of the same fact and not be dealt as every case has own merits and crux.
- t. That some other grounds will be agitated at the time of arguments with the prior permission of the Honorable highness.

Pray:

In view of above submission it is requested, by accepting of instant service appeal the impugned order of Respondent No-2 may graciously be set aside with the direction to expunge the adverse remarks in ACR/PER for the period mentioned above for the end of justice or blessed with any other remedy along with all consequential back benefits in the larger interest of appellant .

Dated: _____/2023.

Through


(Appellant) 

Syed Mudasir Pirzada
Advocate HC.
District Courts Kohat
0345-9645854

Certificate:-

Certified that no such like appeal has earlier been filed in this Hon able Service tribunal as per instruction of my client .

List of Books

- 1:- Constitution of Pakistan 1973
- 2:- Police Rules
- 3:- Case Law according to need.

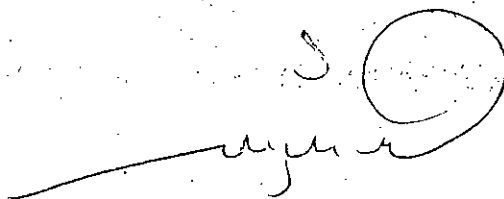
BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal _____ 2023

AFFIDAVIT

I, Syed Mudasir Pirzada Advocate, as per instruction of my client do here by solemnly affirm and declare that all the contents of accompanying service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable Tribunal

Advocate

A handwritten signature in black ink, appearing to read 'Syed Mudasir Pirzada', with a large circular flourish at the end.

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal _____ 2023

Rehmat Ullah Sub Inspector District Karak NO 242/K Police Line Karak

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

(Respondent)

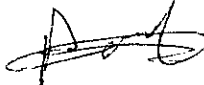
ADDRESS OF THE PARTIES

APPELLANT :-

Rehmat Ullah Sub Inspector District Karak NO 242/K Police Line Karak

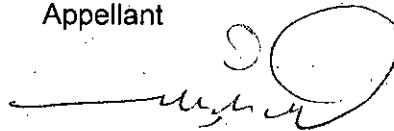
RESPONDENTS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT



Appellant

Through



Syed Mudasir Pirzada
Advocate HC
0345-9645854

Date ____/____/____

Annexure (A)

Page (7)

OFFICE OF THE
REGIONAL POLICE OFFICER
KOHAT REGION



No. 226 / ICC

Dated 19/4/2022

To:- The District Police Officer, Karak.

Subject:- ANNUAL CONFIDENTIAL REPORT/CERTIFICATE

Dy. No. 233

22-4-2022

MEMO:

In the Annual Confidential Report on the working of SI Rehmat Ullah for the period from 14.06.2020 to 31.12.2020 is as under:-

Class of the Report	"A"
Remarks of Reporting Officer	
Remarks by the countersigning Officer	"Below Average Officer" "Not Agreed"

The above remarks may please be conveyed to the officer concerned in order to remedy the defects. Representation if made should be sent no later than one month from the date of receipt of this communication.

An acknowledgement as token of the receipt of the memorandum may also be obtained from his on the attached duplicate copy of this communication and sent to this office for record on his Character Roll Dossier.

Regional Police Officer,
Kohat Region

PA
m n / 22/02/22

98

District Police Officer
Karak

Attested
by
Comd. I
m n / 22/02/22

22/04/2022

DEPARTMENT

KARAK DISTRICT

ANNUAL CONFIDENTIAL REPORT ON THE WORKING OF INSPECTOR, ASSTT: SUB: INSPECTOR
#. DIST HC FOR THE PERIOD 14.06.2020 to 31.12.2020

Name Provincial or Range No. Rank and Grade.	Sub Inspector Rehmat Ullah No.
Father's Name	Rab Nawaz
Where and how what duties employed during the last 12 months	14.06.2020 to 28.06.2020 (Suspended) Police Lines Karak 29.06.2020 to 05.08.2020 Police Lines Karak 06.08.2020 to 17.09.2020 I/C Narcotics Cell 18.09.2020 to 31.12.2020 SHO PS Teri
Class of Superintendent of Police's report i.e. A or B or C.	A
Is he is honest	Yes
Remarks by: 1. Superintendent of Police 2. Regional Deputy Inspector of Police	

*Below avg. officer.
Not Agreed.*

[Signature]
Regional Deputy Inspector
Karak

(IRFAN ULLAH KHAN) PSP
District Police Officer, Karak

[Signature]
District Police Officer
Karak

*Attested
by
Council
[Signature]*

85/100
18/4-22

No. SI/753-54/122. dated Peshawar the 14 / 4 / 2022

To: The Regional Police Officer,
Kohat Region.

Subject: ANNUAL CONFIDENTIAL REPORTS/CERTIFICATE

Memo:

Please refer to your office memo No. 93/CC, dated 09.03.2022 on the subject cited above.

The Competent Authority has directed to convey following remarks recorded by the countersigning officer i.e Regional Police Officer Kohat on ACR of SI Rehmat Ullah for the period from 14.06.2020 to 31.12.2020

"Below Average Officer "
"Not Agreed"

Moreover, ACR in original of the aforesaid Sub Inspector is returned herewith for further necessary action and token of its receipt may be acknowledged, please

M 13/04/22

(IRFANTARIO) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

Endst: No. & date even:

Copy of above is send to Office Superintendent, Carrier Planning Branch (CPB) for record.

Attested
by
Cannil
[Signature]

Annexure (B)

Page (10)

To: The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Through: PROPER CHANNEL

Subject: REPRESENTATION

Respected Sir,

With profound regards, appellant submit representation for expunged of the Adverse Remarks recorded by countersigning Authority (RPO Kohat) for the period 14-06-2020 to 31-12-2020. The remarks were conveyed vide your good officer letter No. 753-54/22 dated 14-04-2022 through regional Police officer Kohat letter No. 226/cc dated 19.04.2022.

FACTS:

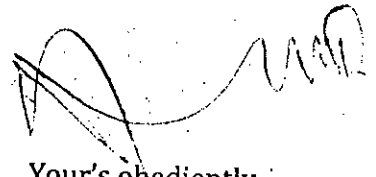
1. That appellant is serving Khyber Pakhtunkhwa Police in the rank of Sub-Inspector under your kind command and control. Appellant is posted in district Karak of Kohat Region Police.
2. That during the period under review appellant was also posted in district Karak. The reporting officer rated appellant as good Police officer and held. The class of Report as "A" but unfortunately the countersigning Authority declared the appellant as " Below Average officer" and did not agree with remarks of Reporting officer for the impugned period. The remarks were conveyed as Adverse. Therefore this representation on those following grounds.

GROUND:

- a. That the remarks of countersigning officer is outcome of misunderstanding. The countersigning officer has not properly evaluated the performance of appellant for the impugned period. Law and rules emphasis objectives but not subjective assessment of the performance. The countersigning officer has not referred to any specific lapses and omission and source behind the impugned remarks. Therefore the remarks are herewith expunged.
- b. That appellant has earned good report from reporting officer who was immediate superior of the appellant and was directly supervising the working of appellant. Therefore the remarks of countersigning officer without advance of reasons of disagreement with assessment of reporting officers, suffered from vagueness.
- c. That the countersigning officer has not supplementary the adverse remarks with any material evidence. He has not referred to the weighing scale of performance evaluation. Therefore inconsistent remarks of countersigning officer with the reporting officer without any tangible evidence are against his was settled principles of performance evaluation.
- d. That counseling of an officer reported upon is must before recording was not ensured nor warning or advice notice was issued to appellant. The remarks were recorded at the back of appellant.

Attested
by
[Signature]

- e. That the remarks pertaining to the year 2020 were conveyed to appellant in the year 2022, therefore the late dispatch of the remarks also prove the misunderstanding on the part of countersigning officer.
- f. That a chain of reporting and countersigning officer have rated appellant as good officer throughout long span of service. Human conduct does not change abruptly which further support that the remarks are outcome of misunderstanding.
- g. That the countersigning officer has probably took the adverse notice of suspension of appellant during the period. Actually appellant was proceeded against departmentally during the period under review but was exonerated of the charges and re-instated from the date of suspension, thus the stigma of suspension was do away with on acceptance of the representation the impugned remarks may please be expunged.



Your's obediently
Rehmat Ullah
SI No. 242 /K
Police Lines Karak
Cell: 0333-9623524

05.5.2022

Attested
by
Counsel
[Signature]



227
31-7-2023

Page (18)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR.
Phone: 091-9210927 Email: secretbranchcpo97@gmail.com

No. SI/ 1974-76/23, dated Peshawar the 25 / 07 /2023.

ORDER

This order pertains to the representation preferred by Sub-Inspector Rehmat Ullah No. 242/K of district Karak for the expunction of Adverse Remarks contained in his ACR for the period from 14.06.2020 to 31.12.2020 recorded by the reporting/countersigning officer. Comments were also obtained.

After going through the relevant record, comments and material on ground the Adverse Remarks recorded in his ACR for the period from 14.06.2020 to 31.12.2020 are maintained and his representation is hereby filed/rejected.

Sd/-
DIG/HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

25
31-8-2023

cc/
27/7

Endst: No. & date even.

Copy of above is forwarded for information and necessary action, to the:-

1. Regional Police Officer, Kohat Region w/r to his memo: No. 327/C, dated 26.05.2022. Necessary entry into this effect may also be made in his Duplicate Character Roll Dossier. The applicant may also please be informed accordingly.
2. District Police Officer, Karak.
3. Supdt: "E-III" Branch, CPO.

DO 335 -/14
date 31-07/2023

Afsar Jan
25/07
(AFSAR JAN)
Registrar

For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar

SP Investigation Kohat.
for improvement and objection Rl.
also inform the concerned.

25/07/2023

31/7

PA / JCI PS Kohat
For information & M.O &
also inform the officer concerned.

Appended
by
[Signature]

[Signature]
Superintendent of Police
Investigation Kohat
31/7/2023

